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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,681	06/27/2001	Michael D. Rosenzweig	INTL-0597-US (P11773)	3968
7590 10/04/2004			EXAMINER	
Timothy N. Trop TROP, PRUNER & HU, P.C. STE 100 8554 KATY FWY HOUSTON, TX 77024-1805			DEANE JR, WILLIAM J	
			ART UNIT	PAPER NUMBER
			2642	
DATE MAILED: 10/04/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/892,681

Applicant(s)

ROSENZWEIG, MICHAEL D.

Examiner

William J Deane

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2002/0013784 (Swanson) in view of U.S. Patent Application No. 2004/0057131 (Hutzel et al.).

With respect to claim 1 - 6, 8 - 11, 13 – 20, 22 – 24, 27 – 30, note that Swanson teaches a portable device comprising sensor to sense an audio signal and a control unit both inherent in 3G phone 64. The storage unit could be in the users PC or at the service provider (Paragraphs 0024 and 0028). Therefore, Swanson teaches the claimed device except for the noise reduction aspect of the invention. However, Hutzel et al. teach that such is old in the art (see Paragraph 0082 & 0083 of Hutzel). It would have been obvious to one of ordinary skill in the art to have incorporated such a noise reduction means as taught by Hutzel et al. into the device of Swanson to have a higher quality sound. In addition, note headset 66 and microphone 72 in Hutzel et al. Note use in both references of an analog to digital converter (Paragraphs 0082 of Hutzel et al. and 0035 of Swanson). With respect to a transceiver, note Paragraph 0044 – of Hutzel et al. and Paragraph 0081 Of Swanson et al.

With respect to claims 7 and 12, note Paragraph 0083 of Hutzel et al.

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With respect to claim 21, note Paragraph 0042 of Hutzet et al.

With respect to claim 25, such a limitation would be obvious to one of ordinary skill in the art as such would only entail the duplication of what is known in the art.

With respect to claim 26, those elements not shown above are inherent.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent Application No. 2202/0161576 (Benyassine et al.) – note Abstract;

U.S. Patent Application No. 2002/0110256 (Watson et al.) – note Abstract;


U.S. Patent No. 6,230,123 (Mekuria et al.) – note Abstract; and

U.S. Patent No. 5,706,394 (Wynn) – note Abstract.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Deane whose telephone number is (703) 306-5838.

In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (703) 872-9306.

22Sep04

  
WILLIAM J. DEANE, JR.  
PRIMARY EXAMINER